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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/904,121	07/31/1997	JOHN H VRZALIK	7030301.1900	3409

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EXAMINER

HO, THOMAS Y

ART UNIT .	PAPER NUMBER
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DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/904,121

Applicant(s)

VRZALIK, JOHN H

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 15-18, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston USPN4409695 in view of Weismiller USPN5317769.

As to claim 1, Johnston discloses a bariatric bed comprising:

- A frame 2 adapted to support patients having weights in the range of 500 to 800 pounds (col.1, ln.30-35).
- Said frame including an articulated mattress support 3 for supporting a mattress.
- Said support including at least first 6, second 5, and third 4 articulatable sections positioned to support a leg region, a seat region, and a head region, respectively, of the mattress supported on said support (col.2, ln.60-65).
- An articulation mechanism for articulating the mattress support from a relatively horizontal, lying position to a seated position (fig.4).
- Controls 57/58 for tilting the mattress support lengthwise.

Johnston fails to disclose or suggest the following limitations:

- A raise-and-lower mechanism for generally raising and lowering the entire mattress support relative to a floor-engaging portion of the frame.

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Weismiller discloses a raise-and-lower mechanism for generally raising and lowering an entire mattress support 12 relative to a floor-engaging portion (casters/legs) of a frame 14 so a bed can be set at various heights and positions which is required for activities and therapies (col.1, ln.10-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bed disclosed by Johnston to have a raise-and-lower mechanism, as taught by Weismiller, to set the bed at various heights as required for activity or therapy.

As to claim 2, Johnston discloses:

- First 6, second 5, and third 4 articulatable sections.

Weismiller discloses the following limitations not disclosed by Johnston:

- The raise-and-lower mechanism comprises a head end torque arm 66 and a leg end torque arm 66.
- Each said torque arm being pivotally disposed upon said frame 12.
- Said leg end torque arm 66 being adapted to support said second section from a first pair of diverse points. The second section is the middle section of the bed.
- Said first pair being substantially adjacent said first section. The first section is the foot portion of the bed.
- Said head end torque arm 66 being adapted to support said second section from a second pair of laterally diverse points.
- Said second pair being substantially adjacent said third section. The third section is the head section of the bed.

As to claim 3, Weismiller discloses the following limitations not disclosed by Johnston:

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- Each said torque arm 66 is independently actuatable.

As to claim 4, Johnston discloses:

- First 6, second 5, and third 4 articulatable sections.

Weismiller discloses the following limitations not disclosed by Johnston:

- The raise-and-lower mechanism further comprising a leg end jack 20 and a head end jack 22.
- Said leg end jack being adapted to actuate said leg end torque arm 66 for raising and lowering of the portion of said second section adjacent said first section. The first section is the foot portion of the bed, and the second section is the middle portion of the bed.
- Said head end jack being adapted to actuate said head end torque arm 66 for raising and lowering of the portion of said second section adjacent said third section. The third section is the head portion of the bed.

As to claim 5, Weismiller discloses the following limitations not disclosed by Johnston:

- Said leg end jack 22 is actuatable by a first jack motor.
- Said head end jack 20 is actuatable by a second jack motor.

As to claim 6, Weismiller discloses the following limitations not disclosed by Johnston:

- Each said jack motor 51 is a linear actuator type motor.

As to claim 7, Weismiller discloses the following limitations not disclosed by Johnston:

- Said raise-and-lower mechanism is adapted to position said mattress support in up to 10° Trendelenburg. It is shown in the drawings of Weismiller that the raise-and-

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lower mechanism can reach a wide range of angles, and it is well known in the art that the trendelenburg positions of hospital beds can exceed 10-12 degrees.

As to claim 8, Weismiller discloses the following limitations not disclosed by Johnston:

- Said raise-and-lower mechanism is adapted to position said mattress support in up to 12° reverse Trendelenburg.

As to claim 9, Johnston discloses a bariatric bed wherein:

- Said mattress support 3 comprises a radiolucent section 63.
- Said radiolucent section 63 being adapted to allow radiographic examination of a patient while positioned upon said mattress support 3 (col.4, ln.61-69; col.5, ln.1-10).

As to claim 10, Johnston discloses a bariatric bed wherein:

- Said radiolucent section 63 comprises a radiolucent window through said third articulable section 4 (col.5, ln.5-9).

As to claim 11, Johnston discloses a bariatric bed wherein:

- Said radiolucent window 63 comprises an X-ray cassette tray (col.5, ln.5-7).

As to claim 12, Johnston disclose a bariatric bed wherein:

- Said X-ray cassette tray is adapted to permit insertion and removal of an X-ray film without repositioning of the patient under radiographic examination (col.5, ln.1-9).

As to claim 13, Johnston discloses a bariatric bed wherein:

- Said X-ray cassette tray comprises a mechanism adapted for positioning of an X-ray film within said X-ray cassette. The mechanism can be any number of surfaces defined by 63/64/65.

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- Said mechanism being independently operable from either side of said bariatric bed.

Figure 8 of Johnston clearly shows that the space for the X-ray cassette tray extends through both sides of the bed.

As to claim 15, Johnston discloses a bariatric bed wherein:

- Said articulation mechanism comprises a head-up jack 52 (fig.2) dependently interposed between said second articulatable section 5 and said third articulatable section 4.
- Said head-up jack 52 being adapted to articulate said third section 4 relative to said second section 5 for raising and lowering of the head region of the mattress.

As to claim 16, Johnston discloses a bariatric bed wherein:

- Said articulation mechanism comprises a leg-down jack 50 (fig.2) dependently interposed between said second articulatable section 5 and said first articulatable section 6.
- Said leg-down jack 50 being adapted to articulate said first section 6 relative to said second section 5 for raising and lowering of the leg region of the mattress.

As to claim 17, Johnston discloses a bariatric bed wherein:

- Said head-up jack 52 and leg-down jack 50 are cooperatively adapted to position the mattress support as a cardiac chair (Fig.2). The cardiac chair position holds the patient's feet higher than their body, as shown in Figure 2.

Weismiller discloses the following limitations not disclosed by Johnston:

- A leg end jack 20 and a head end jack 22.

As to claim 18, Johnston discloses a bariatric bed wherein:

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- Said head-up jack 52 and leg-down jack 50 are cooperatively adapted to articulate the mattress support 3 into a position that facilitates patient ingress and egress over the leg region 6 of the mattress (col.1, ln.50-52; col.6, ln.1-7).

Weismiller discloses the following limitations not disclosed by Johnston:

- Articulation mechanism also having a leg end jack 20 and a head end jack 22.

As to claim 21, Johnston discloses a bariatric bed further comprising:

- A plurality of laterally adjustable side rails 9.
- Each said side rail 9 being collapsible to a transport position (fig.2) within the side planes of said frame 2. A non-transport position (fig.4, fig.10) has side rails extended out of the plane of the frame at a 45-degree angle.

As to claim 22, Johnston discloses a bariatric bed wherein:

- At least one said side rail 9 comprises an interiorly positioned, integral bed control 57/58.
- Said bed control comprising a display and being adapted to effect articulation of said mattress support 3 (col.4, ln.41-44).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston USPN4409695 in view of Weismiller USPN5317769, and further in view of Bumbalough USPN5393938.

As to claim 14, Johnston fails to disclose or suggest the following limitations:

- Said frame further comprises an integral scale.
- Said scale being adapted to determine the weight of a patient positioned upon said mattress support.



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Bumbalough discloses an in-bed patient scale because it has become increasingly important in the medical community to monitor fluctuations in a patient's weight over the last couple of years (col.2, ln.12-26). Furthermore, the scale is mounted on a frame (col.3, ln.30-38) so sick patients or bedridden patients are not require to get up from bed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bariatric bed disclosed by Johnston to have an integral scale, as taught by Bumbalough, to track fluctuations in a patient's weight without forcing the patient out of the bed.

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston USPN4409695 in view of Weismiller USPN5317769, and further in view of Richards USPN5295276.

As to claim 19, Johnston discloses a bariatric bed further comprising:

- A foot board assembly (83).

Johnston fails to disclose or suggest the following limitations:

- Said foot board assembly being adapted to articulate relative to said first section, from a resting position, when a force is applied thereto, but to increasingly resist said force with increasing degree of articulation.

Richards discloses a foot board assembly 20 adapted to articulate relative to a leg section, from a resting position, when a force is applied thereto, but to increasingly resist said force with increasing degree of articulation (col.8, ln.25-44) so that a patient may exercise his/her feet by exerting force against the foot board. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the foot board on the bariatric bed disclosed by

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Johnston with a resilient foot board, as taught by Richards, to allow a patient to exercise his/her feet.

As to claim 20, Richards discloses the following limitations not disclosed by Johnston:

- Said foot board assembly comprises a dampening member 22.
- Said dampening member adapted to prevent rapid returns of said foot board assembly to said resting position. Richards discloses a foot board assembly comprising a dampening member 22 made of fire-retardant foam (col.5, ln.34-37), wherein it is commonly known that foam does not cause rapid return to shape or any great resilient force with resilient force being provided by the connection to the mattress.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection. The Hasegawa reference has been withdrawn because it does not qualify as prior art.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH

April 23, 2003



J. J. SWANN  
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